

# EXHIBIT E

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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DIRAHN GILLIAMS,	:	CIVIL ACTION NO. 10-1914
	:	
Plaintiff	:	
	:	
	:	
v	:	
	:	
	:	
	:	
DWAYNE MICHAEL CARTER,	:	
pka LIL' WAYNE, et al,	:	Philadelphia, Pennsylvania
	:	July 26, 2011
Defendants	:	9:05 a.m.

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TRANSCRIPT OF HEARING  
BEFORE THE HONORABLE EDUARDO C. ROBRENO  
UNITED STATES DISTRICT JUDGE

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APPEARANCES:

For the Plaintiff:	DIRAHN GILLIAMS 2415 Denfield Street Camden, NJ 08103 Pro Se
For the Defendant Dwayne M. Carter, et al,	CYNTHIA S. ARATO, ESQUIRE Macht Shapiro Arato & Isserles LLP The Grace Building 45th Floor 1114 Avenue of the Americas New York, NY 10036
For Defendant James Scheffer:	BRIAN D. CAPLAN, ESQUIRE Caplan & Ross 270 Madison Avenue 13th Floor New York, NY 10016

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6 transcription service.

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1 with prejudice. The discovery cutoff has passed.  
2 There's been no discovery adduced at all showing any  
3 access by defendants' to plaintiff's work.

4 We produced an expert report that stands  
5 un rebutted that shows that there's no similarity at all  
6 between any protected expression. We are on the verge  
7 of filing a summary judgment motion.

8 Plaintiff was given many opportunities to  
9 withdraw this case. His prior lawyer advised him to do  
10 that months ago, so we think a dismissal with prejudice  
11 is appropriate at this point.

12 THE COURT: Okay. Now, Mr. Gilliams, neither  
13 you nor your lawyer apparently were prepared to proceed  
14 with the case. The defendants have had to spend, you  
15 know, money and efforts trying to defend this case.  
16 You haven't produced anything.

17 MR. GILLIAMS: Well, the case actually  
18 changed as of, what was it, I believe, April when the  
19 defense finally presented their defense to us about two  
20 weeks prior to a deposition of one of their clients.

21 From then on, we actually had to try to  
22 deposition someone else, but between me and my lawyer  
23 he refused to try to deposition that person and that  
24 person actually has a direct trail and it would explain  
25 the whole trail of events. But it actually would

1 THE COURT: What is it? What do you have?

2 MR. GILLIAMS: In 2007, there was access  
3 actually given to the plaintiffs, I mean to the defense  
4 that, given from my deposition from one of the people  
5 that they did have access to the works. And the thing  
6 is there was exact similarities on the part of the  
7 expert witness in 2007 to the exact work. And the work  
8 in 2006 is not exact.

9 There is only two works that are actually  
10 exact, but we have some circumstances that go before  
11 that, just basically the base of how all the creations  
12 started.

13 Everything else is based on how the creation  
14 started. There's only really two exact and they're  
15 both only created in 2007. The thing that was created  
16 in 2006 is actually a little off.

17 MS. ARATO: Your Honor, I don't know what Mr.  
18 Gilliams is referring to as evidence having been  
19 adduced about access. There's been three depositions  
20 in the case, one is of defendant, Mr. Scheffer, who is  
21 the creator of the defendants' work which is a Lil  
22 Wayne song called "Lollipop," and there was no evidence  
23 adduced at Mr. Scheffer's deposition that he had any  
24 access to the plaintiff's work.

25 The plaintiff was deposed. He has no

1 It doesn't match up in key, and neither does "Cave" for  
2 that matter.

3 But, "Cave" is also able to be sampled in a  
4 certain way using a certain synthesizer program, and it  
5 can create the actual song used in "Lollipop." To my  
6 knowledge, I didn't know even -- I never even thought  
7 about going back to that until now which was basically  
8 like a month ago.

9 THE COURT: Thank you. The argument today, I  
10 suppose, revolves around the plaintiff's request that  
11 the case be dismissed without prejudice, and the  
12 defendant's view that the case should be dismissed with  
13 prejudice.

14 Under Rule 41(a)(1)(2), it provides that an  
15 action may be dismissed at the plaintiff's request by  
16 court order on terms that the Court considers proper.  
17 It also provides that unless the Court states otherwise  
18 a dismissal under this paragraph is without prejudice.  
19 So the Court has to determine what are the proper terms  
20 in this case and whether or not it should be dismissed  
21 with prejudice.

22 We take into account the following. This  
23 case was filed on April 29th of 2010. Since then there  
24 has been an amended complaint and an answer. There  
25 have been four scheduling orders that were entered

1 extending the time for taking discovery.

2 At least three depositions were taken in this  
3 case. The plaintiff was given an opportunity to obtain  
4 substitute counsel once his own counsel withdrew from  
5 the case. The defendants have been put to the task of  
6 defending the case.

7 The Court needs not determine whether or not  
8 the plaintiff would ultimately win the case. The point  
9 is, what are the proper terms. If the case is  
10 dismissed without prejudice, it simply would have  
11 placed the defendants to the burden and expense of  
12 defending a case which ultimately fizzled through no  
13 fault of their own.

14 On the other hand, it is plaintiff who had  
15 the burden of proof, who brought this lawsuit and who  
16 had the burden of going forward, both the burden of  
17 production and the burden ultimately of persuasion  
18 here.

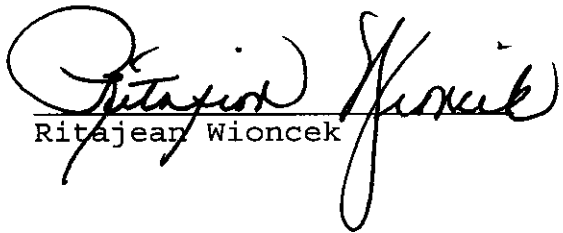
19 So a proper term for dismissing this case is  
20 with prejudice under Rule 41. As it has been discussed  
21 here, the dismissal would bar any subsequent action  
22 based upon the assertions in the amended complaint.

23 If there are other causes of actions as  
24 between these parties that has nothing to do with this  
25 case, if and when such action is brought, then we would

CERTIFICATION

I, Ritajean Wioncek, do hereby certify that  
the foregoing is a true and correct transcript from the  
electronic sound recordings of the proceedings in the  
above-captioned matter.

11-8-11  
Date

  
Ritajean Wioncek